

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OASIS INTERNATIONAL WATERS,)	
INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 10-707C
)	(Judge Horn)
UNITED STATES,)	
)	
Defendant.)	

JOINT WITNESS LIST

Pursuant to the Court's order of May 15, 2014, plaintiff, Oasis International Waters, Inc. (Oasis) and defendant, the United States, respectfully submit this joint witness list. By filing a joint statement, neither party concedes the relevance of any witness or the correctness of the opposing party's characterization of any witness's testimony.

PLAINTIFF'S LIST OF WITNESSES TO BE CALLED AT TRIAL

	Witnesses	Testimonial Topics	Time for <i>Direct</i> Examination	Will Call	May Call
1	Paul Morrell	Contract W27P4A-05-C-0002, Contract Modifications P00001 through P00013, Contract Performance, Government-caused Delays to Oasis' Performance and KBR Interferences, Economic Duress and Coercion, Certified Claim, and All Allegations Raised in the Complaint and/or Amended Answer and Counterclaim	4 hours	X	
2	Phil Morrell	Solicitation W27P4A-05-R-0002 and Proposals to Same, Contract W27P4A-05-C-0002, Contract Modifications P00001 through P00013, Contract Interpretation, Contract Performance, Government-caused Delays to Oasis' Performance, Economic Duress and Coercion, Certified Claim, Texas Meeting	4 hours	X	
3	Paul Jeffries	Contract W27P4A-05-C-0002, Contract Modifications P00001 through P00013, Contract Interpretation, Contract Performance,	4 hours	X	

		Government-caused Delays to Oasis' Performance, Economic Duress and Coercion, Certified Claim, Calculation of Damages, Texas Meeting, and All Allegations Raised in the Complaint and/or Amended Answer and Counterclaim			
4	Dan Petsche	Solicitation W27P4A-05-R-0002 and Proposals to Same, Contract W27P4A-05-C-0002, Contract Modifications P00001 through P00013, Contract Interpretation, Contract Performance, Government-caused Delays to Oasis' Performance, Certified Claim	5 hours	X	
5	Neil Vos	Invoicing and Payment, Certified Claim, Calculation of Damages	2 hours		X
6	Alan Morrell	Contract W27P4A-05-C-0002, Contract Modifications P00001 through P00013, Contract Performance, Government-caused Delays to Oasis' Performance and KBR Interferences, Economic Duress and Coercion, Certified Claim	3 hours	X	
7	Barbara D'Amato	Contract W27P4A-05-C-0002, Role in Securing Project Financing for Oasis International Waters, Inc., Modification P00006	2 hours	X	
8	Marcus Overbay (adverse)	Solicitation W27P4A-05-R-0002 and Proposals to Same, Contract W27P4A-05-C-0002, Contract Funding, Contract Modifications P00001 through P00013, Funding for Modifications, Contract Interpretation, Contract Performance, Government-caused Delays to Oasis' Performance and KBR Interferences, Certified Claim	2 hours	X	
9	Salah Saikali (adverse)	Project and Contracting Office ("PCO") network and document retention policies and procedures; spoliation.	2 hours	X	
10	Christine Pelletier (adverse)	Central Command document retention policies and procedures; spoliation.	3 hours	X	
11	Roger Burgess (adverse)	Project and Contracting Office ("PCO") data and/or systems stored in Winchester, VA; spoliation.	2 hours	X	
12	Dean Carsello (adverse)	Certified Claim, Claim Review, Contracting Officer Final Decision on Oasis Claim, Texas Meeting; individual document retention and destruction; spoliation	3 hours	X	
13	Major Robert Olipane (adverse)	Air Force Base networks and document retention policies and procedures; Central Command network in Iraq; spoliation.	2 hours	X	

14	Scott Macchio (adverse)	Central Command network; spoliation.	2 hours	X	
15	Donna Sherman (adverse)	Project and Contracting Office (“PCO”) data and/or systems stored in Winchester, VA; spoliation.	1 hour		X
16	Christina Holsclaw (adverse)	Project and Contracting Office (“PCO”) data and/or systems stored in Winchester, VA; spoliation.	1 hour		X
17	Thomas Wells	Project and Contracting Office (“PCO”) network, data retention, and backup systems; spoliation.	2 hours.	X	
18	Douglas Masengale	The contents of the “expert report” of John McGrath; the contents of the rebuttal expert report of Douglas Masengale; testimony offered by John McGrath at trial.	2 hours	X	
19	Dennis Allen	The contents of the “expert report” of Eric Schaeb; the contents of the rebuttal expert report of Dennis Allen; testimony offered by Eric Schaeb at trial.	2 hours	X	
20	William King (adverse)	Contract funding and related issues.	2 hours		X
21	Col. (ret.) Marcia Smith (adverse)	Contract funding and related issues.	2 hours		X
22	Lieutenant Colonel James E. Davis, USAF (adverse)	Individual document retention and destruction; spoliation	1 hour	X	
23	Lieutenant Colonel Jamie Rhone, USAF (adverse)	Individual document retention and destruction; spoliation	1 hour	X	
24	Colonel Renee M. Richardson, USAF (adverse)	Individual document retention and destruction; spoliation	2 hours	X	
25	Major (Ret.) Mauricio Vazquez, USAF (adverse)	Individual document retention and destruction; spoliation	1 hour	X	
26	Lieutenant Colonel Kevin R. Hobbs, USAF (adverse)	Individual document retention and destruction; spoliation	1 hour	X	
27	Commander Jason Klingenberg, USN	Individual document retention and destruction, transmittal of documents to Dean Carsello; spoliation	1 hour	X	

	(adverse)				
	Plaintiff reserves the right to call any person listed on Defendant's Witness List	Any and All	Unknown.	X	

GOVERNMENT'S WITNESSES

The Government objects to Oasis's statement that it reserves the right to call any witness proffered by the Government. The Court's order requires "a brief description of the specific topics to be addressed in the expected testimony and the time needed for direct examination," which Oasis has not provided. Moreover, this request inconveniences the witnesses and the Court because Oasis will have the Government bring all witnesses that it called to trial, even though it may not be necessary to proffer testimony of all witnesses. This additional uncertainty also impedes the progression of trial. Lastly, Oasis will not be prejudiced because it may cross-examine any witness that the Government does call.

I. Fact Witnesses

A. Government Personnel

1. Lieutenant Colonel James E. Davis, USAF (also called by Oasis)

Lt. Col. Davis was the contracting officer who executed bilateral contract modification P00006 in 2006, on behalf of the United States. Lt. Col. Davis is expected to testify regarding the negotiation of this modification and delays in performance of the contract. We expect his direct testimony to take approximately four hours.

2. Lieutenant Colonel Kevin R. Hobbs, USAF

Lt. Col. Hobbs was the contracting officer who issued the contracting officer final decision denying Oasis's certified claim submitted by plaintiff Oasis International Waters, Inc. (Oasis) in 2009. Lt. Col. Hobbs is expected to testify regarding that decision. We expect his direct testimony to take approximately two hours.

3. Commander Jason Klingenberg, USN

CDR Klingenberg was the contracting officer on the contract in July 2008, when Oasis proffered its certified claim. He is expected to testify regarding the facts and circumstances surrounding his receipt of the certified claim. We expect his direct testimony to take approximately one hour.

4. Lieutenant Colonel Marc Lopez, USAF

Lt. Col. Lopez was the contracting officer on the contract in 2005. He executed modifications P00002, P00003, and P00004. He is expected to testify regarding the facts and circumstances surrounding the negotiation of those modifications and Oasis's performance of the contract. We expect his direct testimony to take approximately two hours.

5. Lieutenant Colonel Brandon Montler, USAF

Lt. Col. Montler was the contracting officer on the contract in 2005 and 2006 and executed bilateral modification P00005. He is expected to testify regarding the facts and circumstances surrounding the negotiation of that modification and Oasis's performance of the contract. We expect his direct testimony to take approximately one hour.

6. Lieutenant Colonel Jamie Rhone, USAF (also called by Oasis)

Lt. Col. Rhone was the contracting officer for the contract in 2008 and 2009. Lt. Col. Rhone is expected to testify about discussions with Oasis regarding the certified claim and negotiations that preceded the award of a follow-on contract to Oasis in 2009. We expect his direct testimony to take approximately two hours.

7. Colonel Renee M. Richardson, USAF (also called by Oasis)

Col. Richardson was the contracting officer who executed certain contract modifications in 2006, including bilateral contract modification P00011. Col. Richardson is expected to testify regarding the facts and circumstances surrounding the negotiation of that modification as well as later discussions with Oasis personnel. We expect her direct testimony to take approximately six hours.

8. Major Patrick Sturgill, USA

Maj. Sturgill was on the source selection evaluation team in 2005. He is expected to testify regarding his assistance to Oasis in selecting sites for certain bottled water plants. We expect his direct testimony to take approximately two hours.

9. Major (Ret.) Mauricio Vazquez, USAF (also called by Oasis)

Maj. Vazquez was the contracting officer who issued Solicitation No. W27P4A-05-R-0002 and awarded Contract No. W27P4A-05-C-0002 in 2005. He is expected to testify regarding his issuance of the solicitation and award of the contract. We expect his direct testimony to take approximately four hours.

B. Current And Former Oasis Employees

1. Paul Jeffries (also called by Oasis)

Mr. Jeffries was senior Oasis executive from 2005 to 2010, first as CFO from 2005 to 2006 and then as CEO from 2006 through 2010. Mr. Jeffries currently consults with Oasis in relation to the certified claim. Mr. Jeffries is expected to testify regarding the formation of Oasis in 2005, Oasis's performance of the contract, the negotiation of various contract modifications in 2005 and 2006, his activities in relation to Oasis's communications with various outside parties, and his activities in relation to the certified claim. We expect him to be a hostile witness and for his testimony to take approximately one day.

2. Alan Morrell (also called by Oasis)

Mr. Morrell has been an Oasis employee since approximately 2006. Mr. Morrell is expected to testify regarding his activities in relation to Oasis's communications with military personnel, Oasis's performance of the contract, and his activities in relation to the certified claim. We expect him to be a hostile witness and for his direct testimony to take approximately four hours.

3. Paul Morrell (also called by Oasis)

Mr. Morrell has been a senior Oasis executive since 2005 and currently owns the entire company. Mr. Morrell is expected to testify regarding the formation of Oasis in 2005, Oasis's performance of the contract, the negotiation of various contract modifications in 2005 and 2006, his activities in relation to Oasis's communications with various outside parties, and his activities in relation to the certified claim. We expect him to be a hostile witness and for his direct testimony to take approximately one day.

4. Phil Morrell (also called by Oasis)

Mr. Morrell was a senior Oasis executive and chairman from 2005 to 2011 or 2012, and owned 50 percent of the company until early 2012, when he sold his interests. Mr. Morrell is expected to testify regarding Morrell International, Inc.'s efforts to obtain the contract as an unsuccessful bidder, the formation of Oasis in 2005, Oasis's performance of the contract, the negotiation of various contract modifications in 2005 and 2006, his activities in relation to Oasis's communications with various outside parties, and his activities in relation to the certified claim. We expect him to be a hostile witness and for his direct testimony to take approximately one day.

5. Dan Petsche (also called by Oasis)

Mr. Petsche has been a senior Oasis executive since 2005. Mr. Petsche is expected to testify regarding Morrell International, Inc.'s efforts to obtain the contract as an unsuccessful bidder, the formation of Oasis in 2005, Oasis's performance of the contract, the negotiation of various contract modifications in 2005 and 2006, his activities in relation to Oasis's communications with various outside parties, and his activities in relation to the certified claim. We expect him to be a hostile witness and for his direct testimony to take approximately one day.

6. Neil Vos (also called by Oasis)

Mr. Vos has been a senior Oasis executive (CFO) since at least 2006. Mr. Vos is expected to testify regarding , Oasis's performance of the contract, his activities in relation to Oasis's communications with various outside parties and his activities in relation to the certified claim. We expect him to be a hostile witness and for his direct testimony to take approximately Four hours.

7. W. Maxwell (Max) Wyeth

Mr. Wyeth was also Oasis's first president, from July 2005 through January 2006. Mr. Wyeth was also at all relevant times president and 95 percent owner of American AquaSource, Inc. (AquaSource), the original awardee. Mr. Wyeth is expected to testify regarding AquaSource's response to the solicitation, his contemporaneous understanding of the contract, Oasis's performance of the contract, the issuance of various contract modifications, and the formation of Oasis. We expect his direct testimony to take approximately three hours.

C. Third Parties

1. Barbara D'Amato (also called by Oasis)

Ms. D'Amato is the CEO of Trilogy Capital Corp., which has assisted Oasis in obtaining financing for performing the contract since 2005. Ms. D'Amato is expected to testify regarding Oasis's and its predecessors' attempts to obtain outside financing, their representations to potential financiers and investors between 2005 and 2010. We expect her to be a hostile witness and for her direct testimony to take approximately three hours.

II. Experts

1. John McGrath (also called by Oasis)

John McGrath "was retained by the United States Department of Justice to perform an independent schedule/delay analysis regarding this project to provide purified bottled water to the United States military troops serving in Iraq, beginning in 2005." McGrath Rep. (Dckt. 159) at ¶ 1. Mr. McGrath will testify regarding his independent critical path analysis. We expect his direct testimony to take approximately four hours.

2. Eric Schaeb (also called by Oasis)

Mr. Schaeb “was retained by the Department of Justice . . . to evaluate the damages claimed by Oasis . . . in this matter, . . . and to evaluate the revenue basis that the contractor(s) modeled contemporaneously.” Schaeb Rep. (ECF No. 160) at ¶ 1. Mr. Schaeb will testify regarding his independent analysis. We expect his direct testimony to take approximately four hours.

3. C. Douglas Masengale (also called by Oasis)

Mr. Masengale was retained by Oasis to draft a report in rebuttal of Mr. McGrath’s expert report. ECF No. 181. We expect him to be a hostile witness and for his direct testimony to take approximately three hours.

4. Dennis Allen (also called by Oasis)

Mr. Allen was retained by Oasis to draft a report in rebuttal of Mr. Schaeb’s expert report. ECF No. 180. We expect him to be a hostile witness and for his direct testimony to take approximately three hours.

III. Document Witnesses

1. Dean Carsello, USA Civilian (also called by Oasis)

Mr. Carsello reviewed an early draft of the contracting officer’s final decision on the plaintiff’s certified claim. He is expected to testify regarding his receipt, retention, and disposition of documents related to this contract, as well as the facts and circumstances surrounding the searches of his hard drive. We expect his direct testimony to take approximately two hours.

2. Scott Macchio, USAF, CENTCOM Civilian

Mr. Macchio is the contract lead for the global command and control system at CENTCOM headquarters in Tampa, Florida. He is expected to testify regarding CENTCOM IT policies and procedures. We expect his direct testimony to take approximately two hours.

3. Major Robert Olipane, USAF (also called by Oasis)

Maj. Olipane was deployed to Iraq in 2009, where he performed core internet services. He is expected to testify regarding the `iraq.centcom.mil` network document retention procedures from 2005 until 2011. We expect his direct testimony to take approximately two hours.

4. Donald Unverrich

Mr. Unverrich was a civilian Department of Defense employee who served in Iraq managing communications for Joint Contracting Command-Iraq/Afghanistan. He is expected to testify regarding the Camp Victory contracting office's lack of access to the U.S. Army Corps of Engineers Project Contracting Office (PCO) computer network.

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June 16, 2014

Respectfully submitted,

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CERTIFICATE OF FILING

I hereby certify that on the 16th day of June 2014, a copy of the foregoing “DEFENDANT’S WITNESS LIST” was filed electronically. I understand that notice of this filing will be sent to all parties by operation of the Court’s electronic filing system. Parties may access this filing through the Court’s system.

s/Stephen C. Tosini